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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FIRST APPELLATE DISTRICT

DIVISION THREE

In re N.M., a Person Coming Under the
Juvenile Court Law.

THE PEOPLE,

Plaintiff and Respondent,

v.

N.M.,

Defendant and Appellant.

A154406

(Contra Costa County
Super. Ct. No17-01240)

Appellant N.M., a ward of the juvenile court, appeals from a disposition order insofar as it requires him to participate in and complete the custodial Contra Costa County Probation Department’s Youthful Offender Treatment Program (“YOTP”) conducted in juvenile hall. We affirm.

BACKGROUND

In December 2017, while appellant was a ward of the court in Alameda County, the Contra Costa County District Attorney filed a juvenile wardship petition against him. (Welf. & Inst. Code, § 602.) The petition alleged appellant possessed a loaded firearm, while an active street gang participant, with intent to promote the gang (Pen. Code, §§ 186.22, subd. (b)(1), 25850, subds. (a), (c)(3)) and criminal gang participation (Pen. Code, § 186.22, subd. (a)). In April 2018, the parties stipulated to amend the petition to add a count for possession of a firearm by a minor (Pen. Code, § 29610), appellant pled

no contest to the added count, and the other counts were dismissed by the juvenile court on the prosecution's motion.

On May 7, 2018, the juvenile court accepted the transfer of the case and wardship from Alameda County. Following a hearing, the court issued a disposition order providing, in pertinent part, that the 17-year-old appellant would continue as a ward of the court subject to standard conditions of probation. The court committed appellant to a "County Institution" for a period not to exceed the maximum custody time of 4 years and 167 days, or until age 21, whichever occurred first. Over appellant's objection, the court also required appellant to participate in and successfully complete all phases of the county's "Institution Program YOTP." "Upon release from the program," appellant would be required to be at his legal residence between the hours of 10:00 p.m. and 6:00 a.m. unless accompanied by a parent or guardian.

Appellant timely appealed.

DISCUSSION

Appellant's sole argument on appeal is a challenge to the disposition order's probationary condition requiring him to participate in and successfully complete the county's custodial YOTP conducted in juvenile hall. He contends the provision should be stricken because it is vague, violates his due process rights, and unlawfully delegates to the probation department the right to determine the length of his custodial commitment and to establish the standards by which that determination is made without judicial approval. Appellant's contention is unavailing.

When a minor is "committed to the care, custody, and control of the probation officer," as in this case, the juvenile court "may impose and require any and all reasonable conditions that it may determine fitting and proper to the end that justice may be done and the reformation and rehabilitation of the ward enhanced." (Welf. & Inst. Code, § 730, subd. (b).) "Flexibility is the hallmark of juvenile court law, . . . [and] the juvenile court has long enjoyed great discretion in the disposition of juvenile matters" (*In re Greg F.* (2012) 55 Cal.4th 393, 411.) In committing appellant to juvenile hall for participation in and successful completion of YOTP, the juvenile court

reasonably determined the program would be of assistance to the 17-year-old appellant, who was of an age to “really benefit from the YOTP program.” The court also found the YOTP at juvenile hall was the “most appropriate placement” for appellant and would give him the “best opportunity . . . to have the structure he needs.”

We reject appellant’s argument that the disposition order improperly delegates to the probation department the authority to determine the length of appellant’s custodial commitment and the standards under which that determination is made without judicial approval. “[T]he juvenile court found it was probable [appellant] would benefit from [YOTP] because [the court] anticipated [appellant’s] needs would be addressed by [YOTP]. There is no requirement that the court find exactly how a minor will benefit from being committed to [YOTP].” (*In re Jonathan T.* (2008) 166 Cal.App.4th 474, 486 [discussing court’s authority to commit a minor to participate in certain programs upon commitment to Division of Juvenile Facilities].) If appellant disagrees with the probation officer’s assessment of his performance in YOTP, appellant (or his parents or attorneys) can file a section Welfare and Institutions Code section 778 petition requesting the juvenile court to modify the disposition order.

DISPOSITION

The order is affirmed.

Petrou, J.

WE CONCUR:

Fujisaki, P.J.

Wiseman, J.*

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* Retired Associate Justice of the Court of Appeal, Fifth Appellate District, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.